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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

SOAP1

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Application Number

10/787,142

Filed

February 27, 2004

First Named Inventor

Bruce E. Kramer

Art Unit

1751

Examiner

Nicholas Ogden

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 33,725

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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December 26, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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On page 2 of the Office Action of July 31, 2006, claims 24, 26, 28-51 and 53-58 are rejected under 35 U.S.C. 103 as being unpatentable over Sonnenberg et al, U.S. Patent 6,673,756. This rejection is maintained in the Advisory Action of November 24, 2006.

Applicants respectfully submit that Sonnenberg neither teaches nor suggests the present invention, and request that the rejection be withdrawn in view of the following remarks.

Initially, Applicants submit that Sonnenberg specifically discloses soaps in which the individual phases are highly visible when viewed from above and from the side (see, e.g., the Abstract). This is a characteristic feature of Sonnenberg (see, e.g., col. 2, lines 35-41). The use of Sonnenberg's soaps permits various scent experiences to be achieved during the washing operation (see, e.g., the Abstract).

Applicants submit that such soaps neither teach nor suggest the invention of independent claim 24, which recites a method in which the cleansing bar that is used comprises an outside layer and an inside layer, wherein outside layer is a different color than the inside layer. The inside layer is not visible from the outside (i.e., it is not visible when viewed from above or from the side), and thus a child is motivated to wash away the outside layer to see what color the inside layer is. Sonnenberg neither teaches nor suggests such a concept, and thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 24 or the claims dependent thereon.

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Further, Applicants submit that Sonnenberg's soaps neither teach nor suggest the invention of independent claim 28, which recites a method in which the cleansing bar that is used comprises a top layer and at least one other layer, wherein the top layer is a different color than the at least one other layer. The at least one other layer is not visible when viewed from above, and thus a child is motivated to wash away the top layer to change the appearance of the bar. Sonnenberg neither teaches nor suggests such a concept, and thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 28 or the claims dependent thereon.

Similarly, Applicants submit that Sonnenberg's soaps neither teach nor suggest the invention of independent claim 50, which recites a method in which the cleansing bar that is used comprises a first layer and at least one other layer, wherein the first layer is a different color than the at least one other layer. The at least one other layer is not visible when viewed from above, and thus a child is motivated to wash away the first layer to change the appearance of the bar. Sonnenberg neither teaches nor suggests such a concept, and thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 50 or the claims dependent thereon.

Thus, Applicants submit that the cited reference does not teach or suggest a cleansing bar with an outside layer, a top layer, or a first layer as those terms are used in the present application, and thus the cited art neither teaches nor suggests a step of washing or bathing with the cleansing bar so that the **outside** layer disappears (in the case of amended independent claim 24), a step of washing or bathing so that the **top** layer

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disappears (in the case of amended independent claim 28), or a step of washing or bathing so that the first layer disappears (in the case of amended claim 50).

Moreover, Applicants submit that the cited art neither teaches nor suggests a method for improving a child's hygiene comprising motivating a child to wash or bathe by providing the child with the particular cleansing bar recited in independent claim 58 (i.e., a bar having rainbow colors and containing a prize identifier having the appearance of a pot of gold) and having the child wash or bathe with that bar. Applicants submit that the cleansing bar recited in claim 58, including its particular prize identifier inside, would motivate a child washing longer and more often than would the cleansing bar disclosed or suggested by the cited art, and thus would improve a child's hygiene.

Further, Applicants submit that the Examiner's citation of the Seid case, which is directed to a product, does not apply to the present invention, which is directed to a method. In this regard, Applicants submit that the colors and layers in the present invention are not merely ornamentation or aesthetic design changes, but rather are functional in that they are specifically designed to motivate a child to wash or bathe.

Also, Applicants submit that the prior art does not suggest the combination of elements recited in the present method claims, and thus the Lintner and Dillon case law cited by the Examiner does not apply (in the Lintner and Dillon cases, the combination of elements themselves in the claimed invention in the each case was obvious even though the reason for combining them was different than in the prior art).

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In particular, a key element of the present method claims is the element of motivating a child to wash or bathe, wherein the child is motivated to wash or bathe with a multicolored cleansing bar in order to see the appearance of the cleansing bar change in a particular way (e.g., the outside layer disappearing in claim 24, the top layer disappearing in claim 28, or the first layer disappearing in claim 50). Seeing the cleansing bar change appearance is what motivates the child to wash or bathe and thus is an important feature of this element of the present invention.

While the Examiner contends that the bar of the cited art would inherently motivate a child to wash, Applicants disagree but in any event submit that the cited art would not inherently motivate a child to wash in order to see the appearance of the cleansing bar change in the particular way recited in the present claims (e.g., the outside layer disappearing in claim 24, the top layer disappearing in claim 28, or the first layer disappearing in claim 50).

Thus, Applicants submit that the prior art does not teach or suggest all the elements of the present method claims.

As to the Examiner's contention that one would be motivated to assemble the layers and colors as claimed absent a showing to the contrary, Applicants submit that there is no reason why one skilled in the art would be motivated to assemble the layers and colors as claimed. Applicants submit that the cleansing bar recited in the present method claims is specifically designed to motivate a child to wash or bathe in order to see the appearance of the cleansing bar change in a certain way (e.g., the outside layer

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disappearing in amended claim 24, the top layer disappearing in amended claim 28, or the first layer disappearing in amended claim 50).

In contrast, Applicants submit that the prior art neither teaches nor suggests a motivation due to seeing the appearance of the cleansing bar change. Indeed, Sonnenberg is directed to achieving *various scent experiences* (see, e.g., the Abstract), which neither teaches nor suggests an appearance change motivation as in the present invention.

Thus, Applicants submit that the present invention is not obvious over the cited art, and withdrawal of this rejection is respectfully requested.